

REMARKS

The Applicants have now had an opportunity to carefully consider the comments set forth in the Office Action that was mailed February 25, 2008. The acknowledgement of the persuasiveness of the arguments presented in the **Appeal Brief** filed in October 2007 with regard to **claims 10-18, 21-24 and 30** is noted with appreciation.

However, the new grounds of rejection are respectfully traversed. Additionally, the rejection of **claims 1-9, 25-29** and **claims 19 and 20** according to grounds that were first presented in the Office Action that was mailed November 15, 2006 are respectfully traversed.

Further in this regard, it is respectfully submitted that the Office Action is not completely responsive. As indicated in the MPEP §707.07(f), where the Applicant traverses any rejection, the Examiner should, if he or she repeats the rejection, take note of the Applicant's argument and answer the substance of it.

In the present instance, the Examiner has repeated the rejections of **claims 1-9 and 25-29** as well as the rejections of **claims 19 and 20** without taking note of the Applicants' traversal of these rejections and without answering the substance of them. Accordingly, if the rejections in the present Office Action are to be maintained, it is respectfully submitted that the next Office Action should be made non-final and should be completely responsive.

The Office Action

In the Office Action that was mailed February 25, 2008:

claims 1-9 and 25-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,930,700 to Pepper et al. ("Pepper") in view of U.S. Patent Application Publication No. 2002/0111153 A1 to Hartmaier et al. ("Hartmaier");

claims 10-18, 21-24 and 30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper in view of U.S. Patent No. 5,826,185 to Wise et al. ("Wise") and further in view of U.S. Patent Application Publication No. 2003/0083067 by Hanson; and

claims 19 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable in view of a combination of **four** documents including Pepper, Wise, Hanson and U.S. Patent No. 6,745,025 B1 to Chow et al. ("Chow").

The Present Application

The present application is directed toward systems and methods for **screening incoming calls** to help mobile communications subscribers manage or budget their use of air time. That is, while a subscriber may be able to keep track of their air time expenditures and limit their own mobile outgoing calling, it is more difficult to limit calls made by others to the subscriber.

For example, telemarketers may call a subscriber's mobile equipment. If the subscriber answers the call, air time is consumed. The air time may be charged against the monthly allotment or may be billed to the subscriber on a per minute basis. Where a subscriber's user equipment and mobile subscription plan provide for the display of calling line identification information (caller ID), the subscriber may manually manage air time by observing a calling line identification display indicating either a directory number, name or other identification of the calling party and decide whether or not to take the call. Such a decision may be based on the time of day or day of the week and the subscriber's familiarity with provisions of the calling plan of the subscriber. For instance, the subscriber may be willing to take the call if air time is currently unlimited based on the time of the day or the day of the week. However, some subscribers find this method of managing air time unsatisfactory because it requires that they interrupt other activity to access the calling line identification display, and it requires them to remember the details of the their calling plan in order to compare the present time with the air time allocation parameters of the plan.

The subject matter of the present application addresses this problem by allowing the subscriber to establish a list of potential calling parties. The list includes identification information regarding the potential calling parties and allows the subscriber to associate a priority level to each of the list of potential calling parties. **Incoming calls can be screened** based on, for example, a calling line identification or a personal identification code (PIN) associated with the incoming calls and based on, for example, the priority information included in the list of potential calling parties **and on a current cost of message units.**

The Cited Documents

As stipulated by the Office Action, the primary reference of the Office Action to Pepper is directed to a system and method for automatically screening and directing

incoming calls that does not include screening calls based on a current cost of message units.

It is respectfully submitted that the secondary references do not cure this deficiency of Pepper.

Hartmaier allegedly discusses a prepaid subscriber account system for use with a wireless telephone system. The system monitors a subscriber's call, deducts the cost of the call from the subscriber's prepaid account in real time, warns the subscriber during a call when the account is near depletion and terminates the call when the account is depleted. The system can also prevent the initiation of a new call when the account is depleted (Abstract).

Contrary to the assertions of the Office Action, Hartmaier does not disclose or suggest screening calls based on a current cost of message units. Paragraph 72, cited by the Office Action, indicates that if the call monitoring module determines **that the subscriber does not have** a sufficient **account balance** (or, in the words of the Abstract, if the account is depleted) to accept the incoming call, the call monitoring module can respond to the FAVAIL command with an actcode parameter that indicates 'block the call'.

However, while Hartmaier deducts money from an account to pay for a call, Hartmaier **does not** consider the current cost of air time or a current air time ration state before completing or connecting the call in order to determine whether or not the call should be completed or connected to the calling party, sent to voice mail or processed in some other way. It is respectfully submitted that the prevention of call initiation of Hartmaier is based on whether or not the called party's account has any money or other credit in it (or, in the words of the Abstract, if the account is depleted), and not on the current cost of air time or a current air time ration state. Hartmaier **does not** disclose or suggest that the sufficiency of account balance test is based on a current cost of air time. It is respectfully submitted that any reading of Hartmaier as suggesting use of a current cost of air time in an incoming call screening process is based on impermissible hindsight after reading and understanding the present application.

Wise allegedly discloses a cellular phone system in which a cellular phone user (CPU) has a cellular phone with a prepaid amount of available air time. The CPU prepayes for a particular number of airtime units. When a cell site receives a call from the CPU, the cell site communicates with a mobile telecommunications

switching office (MTSO), which recognizes a unique serial number from the cellular phone. The MTSO directs the call to a prepaid airtime transaction tracking interface (PATTI). The PATTI then checks whether the CPU's account has any available airtime units and may indicate the number of units to the CPU. If none, the PATTI does not answer the call; otherwise, the PATTI connects the call and deducts airtime units until the call is disconnected (Abstract). It is respectfully submitted that Wise does not disclose or suggest screening calls or screening calls on the basis of a current cost of message units.

The **newly cited** reference to **Hanson** allegedly discloses a system and method for controlling and monitoring a wireless roaming call (Title). The Office Action cites paragraph 19. However, like the other cited documents, paragraph 19 of Hanson simply discusses verifying that a prepaid wireless subscriber's account balance is sufficient to place or receive a call. If there is an account balance, the account balance is translated into talk minutes and the call is monitored for talk duration. If the prepaid wireless subscriber exceeds the available account balance, the method and system of Hanson tears down the call in the first negative minute and immediately decrements the prepaid wireless subscriber's account. If the call is disconnected before the account balance is depleted, the method and system of Hanson immediately decrements the prepaid wireless subscriber's account and releases the trunks (paragraph 19).

It is respectfully submitted that Hanson does not disclose or suggest managing or rationing air time. If a sufficient balance is available, Hanson places or receives a call. Hanson does not consider a priority of a caller or a current cost of air time. Any interpretation of Hanson as considering a current cost of air time or a current air time ration state is based on impermissible hindsight reasoning and information gleaned only from the present application.

Chow allegedly discloses time-of-day call forwarding in a wireless centrex services system. According to Chow, a wireless telephone subscriber can use a standard cellular/PCS telephone as a wireless extension of their desktop phone, while in the proximity of miniature radio base station capable of communicating with the PCS/cellular telephone. An alleged advantage of such a system is that a subscriber can use the same cellular/PCS telephone that provides a service in the public network in the wireless centrex environment. Additionally, the wireless centrex system provides services and features which are similar to those offered to

regular centrex telephone subscribers. Exemplary features include, caller ID, call waiting, call hold, call transfer, call forwarding and voice messaging (Abstract). The Office Action relies on Chow for disclosure of determining a current day of the week and a current time of day.

It is respectfully submitted that Chow does not disclose or suggest screening a call or making screening decisions based on a current cost of message units.

Summary of Clear Errors of the Office Action

Toward the bottom of page 3, the present Office Action asserts that Hartmaier discloses screening calls based on a current cost of message units and cites paragraphs 27 and 29-82 in support of this assertion.

However, paragraph 72 and paragraphs 79-82 are directed at completely different subject matter.

Paragraphs 79-82 indicate that a function of a call monitoring module includes determining the access fee (either by month, week or day), the permanent charges for air time usage, toll charges and the definition of the "local calling area" (paragraph 79). A call monitoring module can be instructed not to charge for incoming calls that last less than a predetermined time or for calls from specified numbers (paragraph 80). The call monitoring module can also establish separate weekend and holiday rates and provide free minutes and free numbers (paragraph 81). Long distance rates can be based on day, evening, night, mileage, interstate, intrastate, local access transport area, and/or international tables (paragraph 82). Paragraphs 79-82 do not disclose or suggest that any of this rate information is considered or used in any way in making call screening decisions.

Paragraph 72 indicates that if the call monitoring module determines that the subscriber does not have a sufficient account balance to accept the incoming call, the call monitoring module can respond with a parameter that indicates "block the call". Paragraph 72 does not indicate that a current cost of air time or an air time ration state is a factor in determining whether or not the subscriber has a sufficient account balance.

Accordingly, the assertion that paragraphs 72 and 79-82 in some way support the assertion that Hartmaier discloses screening calls based on a current cost of message units represents a clear error of the Office Action. It is respectfully submitted that the only motivation to interpret Hartmaier as providing such disclosure

is impermissible hindsight reasoning based on information gleaned only from the present application.

Toward the top of page 8, the detailed Office Action asserts that Wise discloses the method of managing air time comprising determining a current air time ration state associated with the subscriber and processing the call request according to the current ration state and cites the Abstract and column 1, line 61-column 2, line 10, in support of this assertion.

However, the Abstract of Wise indicates that the PATTI checks whether the cellular phone user's (CPU's) account has any available air time units and may indicate the number of units to the CPU. **If none**, the PATTI does not answer the call; otherwise, the PATTI connects the call and deducts air time units until the call is disconnected.

Similarly, the cited portion of column 2 indicates that "if no air time minutes are available or the account is time expired, PATTI does not answer the call and the process is terminated; otherwise PATTI goes off hook and answers the telephone call and communicates with the cellular phone user telling the user how many minutes are available."

It is respectfully submitted that processing a call based on whether or not there is any time left in an account cannot be fairly construed as disclosing or suggesting rationing. If the account is empty, there is no time to ration. If the account has some time, then Wise processes the call. Accordingly, the assertion of the Office Action that Wise discloses the method of managing air time comprising determining a current air time ration state associated with the subscriber and processing the call request according to the current **ration** state represents a clear error of the Office Action.

Toward the middle of page 8 of the detailed Action, the Office Action asserts that Hanson discloses managing incoming and outgoing air time and cites paragraph 19 in support of this assertion. However, like Pepper and Wise, paragraph 19 of Hanson only indicates that the system of Hanson verifies that the prepaid wireless subscriber's account balance is sufficient to place or receive a call. It is respectfully submitted that determining whether a subscriber has a balance is not fairly construed as --managing air time--. Accordingly, this assertion of the Office Action with regard to Hanson represents a clear error of the Office Action.

The Claims Are Not Obvious

Claims 1-9 and **25-29** were rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper in view of Hartmaier.

In explaining the rejection of **claim 1**, the Office Action stipulates that Pepper fails to disclose screening calls based on a current cost of message units and relies on paragraphs 72 and 79-82 of Hartmaier for this disclosure. However, it is respectfully submitted that the cited portions of Hartmaier do not disclose or suggest screening calls on the basis of a current cost of message units. Moreover, the combination of Pepper and Hartmaier does not disclose or suggest screening calls based on at least one of a calling line identification and a personal identification code associated with the calls and based on information included in the list of potential calling parties, on the associated priorities and on a current cost of message units as recited in **claim 1**.

Paragraph 72 of Hartmaier indicates that a call monitoring module determines whether or not a subscriber has a sufficient account balance to accept an incoming call. Hartmaier does not disclose or suggest that this determination is based on a current cost of message units. Paragraphs 79-82 discuss variations in per-minute charges for airtime usage, toll charges and the definition of the "local calling area." However, there is no suggestion that this information is used in the screening of calls. Even if Hartmaier discloses a system that monitors calls, deducts the cost of the calls from a subscriber's account in real time, warns when the account is near depletion, terminates the call when the account is depleted and prevents call initiation when the account is depleted, Hartmaier does not disclose or suggest considering a current cost of air time before connecting or completing a call in order to determine whether the call should be completed to the called party, sent to voice mail or processed in some other way. These processes of Hartmaier (paragraphs 79-82), other than the depleted account test (paragraph 72), occur after a call has been connected. Accordingly, Hartmaier **does not** disclose or suggest considering a current cost of air time when making a **call screening** decision.

It is respectfully submitted that the rate information discussed in paragraphs 79-82 is used to calculate the running cost of a call as explained, for example, in paragraph 34 of Hartmaier. The call monitoring module calculates the running cost of the call and this running cost is deducted from the prepaid account balance.

When the call is completed [or ended as Hartmaier uses the word --completed-- here], the monitoring stops. If the cost for the call approach or exceed a threshold, then the call monitoring module causes the MSC to conference an IVR into the call path so that the IVR can play an appropriate warning message. The call monitoring module can also instruct the MSC to terminate the call when the prepaid account balance drops below a preselected amount (paragraph 35).

For at least the foregoing reasons, Hartmaier does not include the subject matter for which it is relied. Accordingly, **claim 1**, as well as **claims 2-9**, which depend therefrom, is not anticipated and is not obvious in light of Pepper and Hartmaier taken alone or in any combination and reversal of the rejections is requested.

Additionally, it is respectfully submitted that the motivation to read into Hartmaier subject matter from the present application could only have been gleaned from the present application. Accordingly, the rejection of **claims 1-9** are based on **impermissible hindsight** and, again, **claim 1**, as well as **claims 2-9**, which depend therefrom, is not anticipated and is not obvious in light of Pepper and Hartmaier and reversal of the rejections is requested.

Furthermore, there is no motivation in the art to combine discussion from Hartmaier into the system of Pepper. The motivation suggested by the Office, "the purpose of minimizing call cost", is specious. Pepper and Hartmaier does not minimize call cost and the Office Action provides no explanation as to how the suggested combination would minimize the cost of calls. Hartmaier does not conserve message units. Hartmaier allows a call unless the subscriber does not have a sufficient account balance. Allowing all calls unless an account balance is insufficient does nothing to conserve the account balance or minimize call costs. Accordingly, the assertions of the Office Action represent clear errors and the Office has not met its burden of presenting a prima facie case of obviousness.

For at least the foregoing additional reasons, **claim 1**, as well as **claims 2-9**, which depend therefrom, is not anticipated and is not obvious in light of Pepper and Hartmaier.

Regarding **claims 6-9**, and more particularly in an apparent reference to **claims 8 and 9**, the Office Action asserts that Hartmaier discloses wherein screening calls comprises: completing the requested call to a mobile device of the subscriber if the current ration state is unrestricted, requesting billing information regarding the

subscriber from a billing system; wherein requesting billing information regarding the subscriber from a billing system comprises: requesting information regarding unused allocated air time from an allotment of air time in an air time allocation period associated with the subscriber and directs the attention of the Applicants to FIG. 6, steps 602-604 and paragraph 71 of Hartmaier in support of the assertion.

However, paragraph 71 is silent with regard to air time. Paragraph 70 explains that in a call delivery process (paragraph 63), once it is established that the subscriber's telephone is turned on and has registered with a serving MSC, a CALL DELIVERY process starts when the MSC sends a facility selected and available (FAVAIL) command to the call monitoring module at step 602. Paragraph 71 further indicates that if the call monitoring module determines that the subscriber has a sufficient account balance to accept the call, it responds to the FAVAIL command at step 603 by returning an actcode parameter that indicates 'continue processing'. The serving MSC then sets up the call at step 604.

The remainder of paragraph 71 indicates that, when triggered, a call monitoring module starts a timer and begins monitoring the subscriber account balance and prepares to respond to an ORREQ command. When the parties hang up, the MSC detects this and sends an ORREQ command to the call monitoring module with a trigger-type parameter indicating 'disconnect'. The call monitoring module then stops the call timer and the account balance monitoring at step 610.

It is respectfully submitted that FIG. 6, steps 602-604 and paragraph 71 are unrelated to call screening. Instead, it is respectfully submitted that steps 602-604 and paragraph 71 are directed toward activities that occur after a call has been established or has been connected. Furthermore, the cited portion of Hartmaier is silent with regard to air time.

With apparent reference to **claim 9**, the Office Action asserts that Hartmaier discloses the subject matter of **claim 9** and directs the attention of the Applicants to paragraphs 79-82. However, while the cited portion of Hartmaier discusses access fees and per-minute charges as well as toll charges and aspects related to "local calling area," that discussion is presented in the context of call monitoring and is unrelated to call screening. Accordingly, Hartmaier does not disclose or suggest requesting information regarding a current cost to the subscriber of air time as part of a call screening process as is recited in **claims 1, 7 and 9**. Any suggestion to interpret Hartmaier otherwise could only have been gleaned from the present

application and is, therefore, based on **impermissible hindsight reasoning**.

For at least the foregoing additional reasons, **claims 7, 8 and 9** are not anticipated and are not obvious in light of Pepper and Hartmaier.

The reasoning and citations presented by the Office Action with regard to **claim 25** are similar to those presented in the explanation of the rejection of **claim 1**. In this regard, arguments similar to those submitted in support of **claim 1** are submitted in support of **claim 25**.

For example, the assertion that paragraphs 72 and 79-82 of Hartmaier disclose a system operative to conserve message units for a subscriber comprising determining a current message unit ration state based on a current cost of message units to the subscriber and processing call requests based on determined current message unit ration states is respectfully traversed. Hartmaier is unconcerned with conserving message units. Instead, Hartmaier allows all calls as long as the subscriber's account balance is sufficient. Hartmaier is silent with regard to message units. Hartmaier discusses determining a cost of air time. However, Hartmaier does not disclose or suggest determining a cost of air time for the purpose of screening calls. Instead, Hartmaier determines the cost of air time in order to deduct the appropriate amount from a subscriber's account. As explained in paragraph 72, the call monitoring module issues a command to block a call only when the subscriber's account balance is insufficient to cover the cost of connecting the call. Accordingly, even if the account balance of the subscriber of Hartmaier were an account balance of message units (which is disputed), Hartmaier does not disclose or suggest conserving those message units. **At the point that Hartmaier begins blocking calls, it is respectfully submitted that there would be no message units left to conserve.**

Paragraphs 79-82 discuss operations of a call monitoring module associated with monitoring the subscriber account balance (paragraph 71, column 2). The call monitoring module charges for calls. For example, paragraph 80 indicates that the call monitoring module can be instructed not to charge for incoming calls that last less than predetermined time or for calls from specified numbers. Paragraph 82 indicates that long distance charges can be automatically deducted from subscriber accounts. However, it is respectfully submitted that even if Hartmaier discusses a cost of message units to the subscriber, Hartmaier does not disclose or suggest screening calls or a call processor operative to process a call request of a calling

party based on a determined priority of the calling party and a determined current message unit ration state wherein the current message unit ration state is determined based on a current cost of message units to the subscriber as is recited in **claim 25**.

Accordingly, Hartmaier does not disclose or suggest the subject matter for which it is relied and the Office has not met its burden for presenting a case of ***prima facie*** obviousness. For at least the foregoing reasons, **claim 25**, as well as **claims 26-29**, which depend therefrom, is not anticipated and is not obvious in light of Pepper and Hartmaier.

With regard to **claims 26-29**, the Office Action directs the attention of the Applicants to paragraphs 61-62 and 71 of Hartmaier and asserts that the combination of Pepper and Hartmaier discloses the subject matter of **claims 26-29**.

However, the cited portions of Hartmaier are not related to screening calls, and the Office Action does not explain how the cited subject matter from Hartmaier would be combined with subject matter from Pepper. Accordingly, it is respectfully submitted that the Office has not met its burden for presenting a case of *prima facie* obviousness, and **claims 26-29** are not anticipated and are not obvious in light of Pepper and Hartmaier.

Furthermore, paragraphs 61 and 62 discuss monitoring an account balance during the course of a call and are unrelated to screening a call. It is respectfully submitted that discussion of ending a call because a subscriber's account no longer includes sufficient funds to pay for continuing the call found in the cited portions of Hartmaier does not disclose or suggest managing air time or conserving air time or screening calls on the basis of a priority level of a caller and a current cost of air time or ration state. Furthermore, it is respectfully submitted that combining disclosure of call screening according to the method of Pepper with prepaid account monitoring of Hartmaier does not even disclose or suggest screening calls on the basis of a monitored account balance. It is respectfully submitted that such a suggestion could only have been gleaned from a review of the present application. Accordingly, the rejection of **claims 26-29** are based on **impermissible hindsight** reasoning and **claims 26-29** are not anticipated and are not obvious in light of Pepper and Hartmaier.

Claims 10-18, 21-24 and **30** were rejected under 35 USC §103(a) as being unpatentable over Pepper, Wise and Hanson. In this regard, the Office Action

stipulates that Pepper fails to disclose a method of managing airtime comprising determining a current air time ration state associated with the subscriber; and processing the call request according to the current ration state.

In this regard, the Office Action relies on Wise and the abstract and column 1, line 61-column 2, line 10, to support the assertion that Wise discloses the method of managing air time comprising determining a current air time ration state associated with a subscriber and processing the call request according to the current ration state.

However, **the cited portions of Wise do not disclose or suggest a current air time ration state or determining a current air time ration state.** Both the Abstract and column 2, line 3, discuss a check to determine whether or not any available air time units are in an account of a cellular phone user. **"If no air time minutes are available or the account is time expired...the call and the process is terminated." If the account has air time, the call is connected.** Wise cannot be fairly construed as disclosing a current air time ration state. If the account does not have any air time available, there is nothing to ration. If the account does have air time available, the system of Wise does nothing to ration it, and Wise does not determine a current air time ration state associated with the subscriber or processing a call according to such a current ration state.

Accordingly, the assertions of the Office Action to the contrary represent **clear errors** of fact.

For at least the foregoing reasons, **claims 10 and 30**, as well as **claims 11-24**, which depend from **claim 10**, are not anticipated and are not obvious in view of Pepper, Wise and Hanson.

Additionally, **there is no motivation** in the art to combine subject matter from Wise with subject matter from Pepper. The motivation suggested by the Office Action --for the purpose of allowing, forbidding and limiting communications access with accounts for managing usage air time-- is both unclear and specious.

The alleged motivation is based on the assertion that Wise discloses managing air time. However, as indicated above, Wise cannot be fairly construed as disclosing managing air time. Wise allows all the available air time to be consumed without restriction and without concern for a current air time ration state. The only time Wise prevents a call from being completed is when there is no air time available in an account of a cell phone user. It is respectfully submitted that at this point, there

is no air time to manage. Accordingly, Wise does not disclose or suggest a method of managing air time and there is no motivation to combine subject matter from Wise with subject matter from Pepper.

Accordingly, the **Office has not met its burden** of presenting a prima facie case of obviousness and again, **claims 10** and **30**, as well as **claims 11-24**, which depend from **claim 10**, are not anticipated and are not obvious in light of Pepper, Wise and Hanson.

Additionally, the Office Action asserts that Pepper is modified by Wise does not address managing incoming and outgoing air time. In this regard, the Office Action relies on Hanson and cites paragraph 19 in support of the assertion that Hanson discloses managing incoming and outgoing air time.

However, paragraph 19 of Hanson indicates that the methods and systems of Hanson verify that a prepaid wireless subscriber's account balance is sufficient to place or receive a call, translates the account balance into talk minutes and monitors the call for talk duration. It is respectfully submitted that verifying that a prepaid wireless subscriber's account balance is sufficient to place or receive a call does not disclose or suggest managing air time. If the account balance is not sufficient to place or receive a call, then there is no account balance or air time to manage.

For at least the foregoing additional reasons, **claims 10** and **30**, as well as **claims 11-24**, which depend from **claim 10**, are not anticipated and are not obvious in light of Pepper, Wise and Hanson.

Additionally, there is no motivation in the art to combine the subject matter from Pepper, Wise and Hanson. As indicated above, there is no motivation to combine subject matter from Wise and Pepper. Additionally, including the aspect of incoming and outgoing air time into Wise and Pepper does not arrive at credit risk mitigation. Accordingly, contrary to the assertions of the Office Action, credit risk mitigation does not provide a motivation for combining an incoming and outgoing air time aspect from Hanson with the subject matter from Pepper and Wise. Accordingly, **the Office has not met its burden** of presenting a prima facie case of obviousness, and **claims 10** and **30**, as well as **claims 11-24**, which depend from **claim 10**, are not anticipated and are not obvious in light of Pepper, Wise and Hanson.

Regarding **claims 13** and **14**, the Office Action relies on and cites various portions of Pepper. However, **claims 13** and **14** recite determining a priority level

associated with the calling party comprises *inter alia*: determining a calling line identification associated with the calling party and receiving a personal identification code from the calling party, respectively.

It is respectfully submitted that even if the cited portions of Pepper could be construed as disclosing determining a calling line identification associated with the calling party, the cited portions of Pepper do not disclose or suggest receiving a personal identification code from the calling party. Instead, as an alternative to automatic number identification, Pepper suggests "speaker identification" (column 6, lines 23-24; column 10, lines 51-53; column 12, line 9). It is respectfully submitted that disclosure of using a speaker identification system does not disclose or suggest receiving a personal identification code.

With regard to **claim 15**, the Office Action simply asserts that Pepper, Wise and Hanson disclose the subject matter of **claim 10** and the subject matter of **claim 15** and directs the attention of the Applicants to FIGS. 2E and 2F and portions of columns 4 and 5 of Wise. However, **claim 15** recites *inter alia*: determining a remaining air time allocation period fraction, determining a remaining air time allocation fraction, determining a remaining air time allocation period to air time allocation fraction ratio and determining a current air time ration state based on the air time allocation period to air time allocation fraction ratio. It is respectfully submitted that Wise **does not** disclose or suggest determining either of the fractions recited in **claim 15** or the ratio recited in **claim 15**. Clarification has been respectfully requested, but not provided.

Furthermore, FIG. 2E illustrates the real time function of the system monitoring the duration of the call and then determining which billing formula by which the CPU should be charged (i.e., a local, long distance or international), the billing rate selection being dependent on where the call is directed (column 4, lines 26-32, cited by the Office Action). Accordingly, FIG. 2E is related to processing related to an outgoing call and not to call screening. FIG. 2F illustrates the hang-up function, the system checking to see if the call duration is less than 59 seconds (column 4, lines 45-48, cited by the Office Action). Accordingly, FIG. 2F is related to processing that occurs after a call has ended and is not related to call screening. Accordingly, the assertions of the Office Action in regard to **claim 15** represent clear errors.

With regard to **claims 16, 18 and 21**, the Office Action stipulates that Pepper

fails to disclose certain aspects of those claims and relies on Wise to cure these deficiencies. In an apparent reference to **claim 16**, the Office Action directs the attention of the Applicants to portions of columns 1 and 2 and to portions of columns 3 and 4. However, **claims 16, 18 and 21** depend ultimately from **claim 10**, and **claim 10** recites aspects related to screening an incoming call (e.g., receiving a call request from a calling party, determining a priority level associated with the calling party, etc.). The cited portion of columns 1 and 2 of Wise discuss aspects related to an outgoing call (e.g., column 1, lines 53-60). Furthermore, Wise does not disclose or suggest rationing air time or a current air time ration state. In the system of Wise, if any air time is available in the account of the CPU, the CPU is allowed to make an outgoing call. If there is no air time available, there is no air time to ration and the CPU is not allowed to place a call (column 1, line 57 - column 2, line 10). Similar comments are applicable to the cited portions of columns 3 and 4 with the single exception that column 3, lines 40-43, discusses either blocking incoming calls or having the calling party pay for the incoming call. Accordingly, it is respectfully submitted that Wise does not disclose or suggest screening calls or calculating a current air time ration state for screening calls based on a function of remaining allocated air time. The reliance on paragraph 19 of Hanson for management related to incoming airtime does not cure the lack of calculating a current air time ration state in Pepper and Wise.

In an apparent reference to **claim 18**, the Office Action asserts that Wise discloses the subject matter of **claim 18** and again directs the attention of the Applicants to the portions of columns 1-4 previously discussed. However, the cited portions of column 1-4 do not disclose or suggest determining a current time associated with a subscriber or determining a current air time ration state as a function of the remaining air time allocation or determining a remaining air time allocation associated with the current time as recited in **claim 18** and the Office has not met its burden of presenting a case of **prima facie obviousness** and reversal of the rejections is requested.

In an apparent reference to **claim 21**, the Office Action directs the attention of the Applicants to column 2, lines 10-20 (apparently of Wise), and asserts *inter alia*: that Wise discloses connecting the calling party to a message service if the current ration state is at a maximum restriction. However, the cited portion is silent with regard to connecting a calling party to a message service. The cited portion of

column 2 does not disclose or suggest a message service. Instead, the cited portion is a continuation of a description of a process for a subscriber placing an outgoing call in the system of Wise. The prepaid air time transaction tracking interface (PATTI) plays a tone which indicates to the cellular phone user that the desired phone number may be entered. If the number is valid, PATTI seizes an outside telephone line and connects the cellular phone user immediately. If the telephone number being called is invalid, PATTI disconnects and hangs up on the cellular phone user (CPU) (column 1, lines 65-66; column 2, lines 10-20).

Accordingly, with regard to the rejection of **claim 21**, Wise does not include the subject matter for which it is relied and the Office has not met its burden of presenting a case of ***prima facie* obviousness** and reversal of the rejections is requested.

There is no motivation in the art to combine Pepper, Wise and Hanson as suggested by the Office Action. Wise mitigates credit risk on its own by refusing to process calls if no air time minutes are available in an account and does not disclose or suggest a need for assistance from Hanson in this regard. It is respectfully submitted that the only motivation to make the suggested combination and to read Pepper, Wise and Hanson as disclosing the subject matter alleged by the Office action is information gleaned only from the present application. Therefore, the rejection of **claims 16, 18 and 21** is based on **impermissible hindsight reasoning**.

In an apparent effort to cure the fact that Wise is directed at outgoing calls, the Office Action again asserts that Hanson discloses managing incoming and outgoing air time. In this regard, arguments similar to those submitted above with regard to **claims 10 and 30** are submitted in regard to **claims 16, 18 and 21**. Cited paragraph 19 of Hanson discusses determining if an account has sufficient funds. Hanson does not disclose or suggest managing air time, and combining the incoming and outgoing air time aspect of Hanson with Pepper and Wise does not provide a method for mitigating credit risk. Furthermore, Wise mitigates credit risk on its own and does not suggest a need for assistance from Hanson in this regard. Accordingly, the Office has not met its burden of presenting a *prima facie* case of obviousness and the only motivation for making the suggested combination is information gleaned from the present application. Accordingly, the rejections of **claims 16, 18 and 21** are based on **impermissible hindsight reasoning**.

Regarding **claim 17**, the Office Action relies on Wise and asserts that Wise

discloses determining the current air time ration state associated with the subscriber comprises calculating the current air time ration state based on a current subscriber cost of air time and directs the attention of the Applicants to FIG. 2E. However, as explained above, FIG. 2E illustrates the system monitoring the duration of a call and then determining which billing formula the CPU should be charged. It is respectfully submitted that discussion of determining a charge for a call based on the duration of the call **does not disclose or suggest determining a ration state for taking actions to ration air time for the purposes of screening incoming calls.**

Accordingly, Wise does not include the subject matter for which it is relied, and **claim 17** is not anticipated and is not obvious in view of Pepper and Wise and reversal of the rejection of the Office Action is requested.

In an apparent effort to cure the fact that Wise is directed at outgoing calls, the Office Action again asserts that Hanson discloses managing incoming and outgoing air time. In this regard, arguments similar to those submitted above with regard to **claims 10 and 30** are submitted in regard to **claim 17**. Cited paragraph 19 of Hanson discusses determining if an account has sufficient funds. Hanson **does not disclose or suggest managing air time** and combining the incoming and outgoing air time aspect of Hanson with Pepper and Wise does not provide a method for mitigating credit risk. Wise mitigates credit risk without assistance from Hanson. Accordingly, the Office **has not met its burden of presenting a prima facie case of obviousness** and the only motivation for making the suggested combination is information gleaned from the present application. Accordingly, the rejections of **claims 16, 18 and 21** are based on **impermissible hindsight reasoning.**

With regard to **claims 22-24**, the Office Action stipulates that Pepper fails to disclose determining the current air time ration state associated with the subscriber comprises the elements of **claims 22-24** and relies on Wise for this disclosure. However, it is respectfully submitted that the cited portions do not disclose or suggest the subject matter for which they are relied. Even if FIG. 2E suggests requesting billing information regarding the subscriber from a billing system, **FIG. 2E does not disclose or suggest requesting that information as part of process for determining the current air time ration state associated with a subscriber.** Instead, FIG. 2E illustrates the real time function, the system monitoring the duration of a call and then determining which billing formula should be used to charge the CPU (cellular phone user) (column 4, lines 26-30).

Even if column 1, line 50 - column 2, line 10, discloses requesting information regarding unused allocated air time from an allotment of air time in an air time allocation period associated with the subscriber, Wise does not disclose or suggest doing so in order to determine a current air time ration state associated with the subscriber. Instead, the cited portion of Wise discloses determining if any air time is available and, if so, allowing a cell phone user to place an outgoing call. Wise does not disclose or suggest **rationing** air time. If air time is available, Wise allows calls to be connected. If no air time is available, Wise blocks call completion.

Even if column 5, line 61 - column 6, line 9, discloses requesting information regarding a current cost to the subscriber of air time, Wise does not disclose or suggest doing so to determine a current air time ration state associated with a subscriber.

In an apparent effort to cure the fact that Wise is directed at outgoing calls, the Office Action again asserts that Hanson discloses managing incoming and outgoing air time. In this regard, arguments similar to those submitted above with regard to **claims 10 and 30** are submitted in regard to **claims 22-24**. Cited paragraph 19 of Hanson discusses determining if an account has sufficient funds. Hanson does not disclose or suggest managing air time and combining the incoming and outgoing air time aspect of Hanson with Pepper and Wise does not provide a method for mitigating credit risk. Wise mitigates credit risk without assistance from Hanson. Accordingly, the Office has not met its burden of presenting a *prima facie* case of obviousness and the only motivation for making the suggested combination is information gleaned from the present application. Accordingly, the rejections of **claims 16, 18 and 21** are based on impermissible hindsight reasoning.

For at least the foregoing additional reasons, **claims 14-18 and 21-24** are not anticipated and are not obvious in light of Pepper, Wise and Hanson.

Claims 19 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable in view of four documents including Pepper, Wise, Hanson and Chow.

The Office Action relies on Chow for disclosure of determining a current day of the week and a current time of day.

It is respectfully submitted that Chow does not disclose or suggest screening a call or making screening decisions based on a current cost of message units.

Claims 19 and 20 depend from **claim 18**, which depends from **claim 10**. In

this regard, arguments similar to those submitted in support of **claims 10 and 18** are submitted in support of **claims 19 and 20**. Additionally, even if the **four** references can be combined, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (MPEP 2143.01 (III)). It is respectfully submitted that the only motivation to combine Pepper, Wise, Hanson and Chow is information which can be gleaned only from the present application. Therefore, it is respectfully submitted that the rejection of **claims 19 and 20** are based on **impermissible hindsight**.

For at least the foregoing additional reasons, **claims 19 and 20** are not anticipated and are not obvious in light of Pepper, Wise, Hanson and Chow taken alone or in any combination.

Telephone Interview

In the interests of advancing this application to issue the Applicant(s) respectfully request that the Examiner telephone the undersigned to discuss the foregoing or any suggestions that the Examiner may have to place the case in condition for allowance.

CONCLUSION

Claims 1-30 remain in the application. For at least the foregoing reasons, it is respectfully submitted that the application is in condition for allowance. Accordingly, an early indication thereof is respectfully requested.

Respectfully submitted,

FAY SHARPE LLP

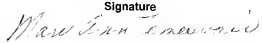
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Date



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CERTIFICATE OF MAILING

Under 37 C.F.R. § 1.8, I certify that this Amendment is being
☐ deposited with the United States Postal Service as First Class mail, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
☒ transmitted via electronic submission on the date indicated below.

Express Mail Label No.:	Signature 
Date <u>May 23, 2008</u>	Printed Name Mary Ann Temesvari

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